

PATENT  
Case No. GP-304038  
(2760/158)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of:	)	
	)	Examiner: PENDLETON
UMA ARUN	)	
	)	Group Art Unit: 2644
Serial No.: 10/784,569	)	
	)	
Filed: FEBRUARY 23, 2004	)	Conf. No. 1071
	)	
Title: DYNAMIC TUNING OF HANDS-	)	
FREE ALGORITHM FOR NOISE	)	
AND DRIVING CONDITIONS	)	

REPLY BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

Dear Sir:

Please consider Appellant's reply brief as follows.

The issues on this appeal can be simplified for Board consideration supporting reversal of the Final Rejection. Appellants explain as follows:

Claims 21 and 26 were rejected under 35 U.S.C. §103(a) as unpatentable over Cairns in view of Schubert.

Schubert in one example uses a geo reference map to estimate bumpiness level of the road. This is for vibration control of an active cab suspension. Schubert has no teachings related to noise suppression in a vehicle.

While Cairns teaches dynamic adjustment of noise reduction algorithm based upon different vehicle conditions, these are upon conditions detected in the vehicle. Cairns does not teach any form of noise reduction based upon conditions inferred or correlated by reference to GPS coordinates. Since Schubert does not teach this, combining Cairns and Schubert still fails to teach the invention. Therefore, Cairns in view of Schubert cannot teach or suggest a method of tuning a hands-free system in a mobile vehicle including receiving a plurality of vehicle condition inputs, including at least one road input based on global positioning coordinates, via a vehicle communication bus; creating a noise parameter based on the vehicle condition inputs, and adjusting a noise suppression algorithm of the hands-free system based on the created noise parameter.

Finally, since Schubert does not relate to noise suppression, it is nonanalogous art. Prior art qualifies as analogous if (1) it is in same field as invention or (2) if not in the same field, then it is reasonably pertinent to the particular problem addressed by the invention. In re Clay, 966 F.2d 656 (Fed. Cir. 1992), pp. 798-802. Schubert, not relating to noise suppression in a vehicle, is not in the same field as Cairns or the claimed invention. Since Schubert does not solve a noise suppression problem, it is not reasonably pertinent to the problem addressed by the claimed invention, or that by Cairns. Thus its use in combination with Cairns is erroneous as a matter of law.

Claims 23 and 27 were rejected under 35 U.S.C. §103(a) as unpatentable over Cairns in view of Schubert in view of Venkatesh

Vankatesh suffers from the same deficiencies as Cairns, it does not teach GPS based inputs to noise suppression. Thus adding Vankatesh to the combination of Cairns and Schubert (proper or not) still does not teach the claimed invention.

Claims 21 and 26 were rejected under 35 U.S.C. §103(a) as unpatentable over Stankewitz in view of Schubert.

Stankewitz, like all of the other references, fails to teach use of a GPS based parameter for noise suppression. Since as pointed out above, use of Schubert is erroneous as a matter of law, its combination with Stankewitz is likewise erroneous.

Appellants point to two addition errors regarding the use of Stankewitz in the Final Action. First, the Examiner's Answer relies on a premise with which Appellants disagree. That is, the rejection asserts that since Stankewitz does not state express limitations on "vehicle parameters," it necessarily suggests using unrelated teachings of anything that, in hindsight, one might be tempted to construe as a vehicle parameter. But the relevant question is what a reference teaches, not its lack of disclosure.

Second, the vehicle parameters in Stankewitz are used only as starting parameters, and thus have limited use in the noise suppression. This is a far cry from teaching all "vehicle parameters" including unrelated limitations in Appellants' claims.

Claim 24 was rejected as unpatentable over Stankewitz in view of Schubert in further view of Tomisawa.

Tomisawa, like all of the other references, fails to teach use of a GPS based parameter for noise suppression. Thus it does not correct any of the deficiencies in the Final Action cited above. In addition, since it is targeted at "actively reducing air intake noise of an air intake system of a vehicular internal combustion engine" (see the Abstract) it also is not relevant as analogous art. Clay, *supra*.

Claims 23 and 27 were rejected under 35 U.S.C. §103(a) as unpatentable over Stankewitz in view of Schubert in view of Venkatesh

Vankatesh suffers from the same deficiencies as Cairns and Stankewitz, it does not teach GPS based inputs to noise suppression. Thus adding Vankatesh to the

combination of Stankewitz and Schubert (proper or not) still does not teach the claimed invention.

#### SUMMARY

The Appellant respectfully submits that claims 21 and 23-36 herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. The Final Rejection below cites various combinations of several references, relying in each case on non-analogous art (Schubert) and citing several references that fail to teach or suggest the invention. Appellants therefore respectfully request the Board to REVERSE the Final Rejection of claims 21 and 23-36.

Respectfully submitted,

/Anthony Luke Simon/  
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